

## **EXHIBIT 26**

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 \*\*\*\*\*

5 IN RE: NATIONAL

6 PRESCRIPTION OPIATE MDL No. 2804  
7 LITIGATION

8 Case No.

9 This document relates to: 17-MD-2804

10 The County of Summit,

11 Ohio, et al v. Purdue Hon. Dan A. Polster  
12 Pharma L.P., et al

13 Case No. 1:18-OP-45090

14 The County of Cuyahoga v.

15 Purdue Pharma L.P., et al

16 Case No. 17-OP-45004

17 \*\*\*\*\*

18 HIGHLY CONFIDENTIAL - SUBJECT TO  
19 FURTHER CONFIDENTIALITY REVIEW  
20 VIDEOTAPED DEPOSITION OF DAVID CUTLER, Ph.D.

21 Friday, April 26th, 2019

22 9:00 a.m.

23 Held At:

24 Robins Kaplan LLP

800 Boylston Street

Boston, Massachusetts

REPORTED BY:

Maureen O'Connor Pollard, RMR, CLR, CSR

1 MR. SOBOL: Objection.

2 BY MR. KNAPP:

3 Q. Is there any relationship?

4 MR. SOBOL: Objection.

5 A. The percentages in Table J.1 were from  
6 Mr. McCann. I was not involved, obviously, in  
7 Mr. McCann's report. Those numbers were  
8 provided to me by counsel. My purpose in  
9 including them here was to let the court know  
10 that if it wished, one could take -- if the  
11 court wished, I could take estimates of the harm  
12 resulting from a particular group of defendants,  
13 in this case the distributors, and calculate the  
14 harms that would come from that.

15 These numbers, I am not -- I am not  
16 testifying -- it is not my opinion that these  
17 numbers are the correct numbers. They were  
18 given to me by counsel who asked if these were  
19 the correct numbers, what would be the harm that  
20 would -- that your model would estimate from  
21 that.

22 BY MR. KNAPP:

23 Q. So, Professor Cutler, I really need  
24 you to focus on the question that I'm asking and

1 strike that.

2 Do you have an opinion on why the  
3 distributors should have stopped approximately  
4 30 percent more shipments in 1997 than that are  
5 attributable to defendants' misconduct?

6 MR. SOBOL: Objection. Form.

7 A. I'm not -- I'm not testifying to the  
8 accuracy of Mr. McCann's analysis here. I'm  
9 showing the court how an estimate of the harms  
10 associated with a particular class of defendants  
11 could -- how the shipments associated with  
12 misconduct on the part of any particular class  
13 of defendants could be used to estimate the  
14 harms from those defendants.

15 BY MR. KNAPP:

16 Q. Do you know or have any opinion on  
17 whether the percentages in Table J.1 are  
18 reasonable in any way?

19 MR. SOBOL: Objection.

20 A. I'm not -- I do not have an opinion as  
21 to whether the estimates in Table J.1 are  
22 correct or incorrect.

23 BY MR. KNAPP:

24 Q. And what about the percent of

1     how including these would affect the coefficient  
2     estimate.

3                 So that is, like everything, an issue  
4     associated with a regression, which is that it  
5     has -- it can only tell about the things it has.

6                 But I again want to emphasize, just  
7     saying that these variables matter is not --  
8     would matter is not the issue here. It's more  
9     involved than that.

10    BY MR. KNAPP:

11                Q.     Let's look at Appendix 3.J in your  
12    report. I want to start with Table J.1. And we  
13    talked a bit about this yesterday. What is your  
14    understanding of where these percentages come  
15    from in Table J.1?

16                A.     These percentages were given to me by  
17    counsel who said that they were the output of  
18    Mr. McCann's analysis.

19                Q.     Have you looked at Mr. McCann's  
20    report?

21                A.     I have not looked at Mr. McCann's  
22    report.

23                Q.     Do you know if any of these  
24    percentages are actually in Professor McCann's

1 report?

2 A. I have not looked at Mr. McCann's  
3 report, so I can't answer that question.

4 MR. KO: I don't know for sure, Tim,  
5 but I think he's not a professor.

6 MR. KNAPP: I'm elevating him.

7 A. After this, Mr. Knapp, we may choose  
8 to make you a professor.

9 BY MR. KNAPP:

10 Q. Depends upon the subject, I don't  
11 know. We'll have to see.

12 A. I don't know, you seem to have a  
13 knowledge of econometrics that is quite  
14 impressive.

15 Q. Oh, well, I appreciate that. Thank  
16 you very much.

17 MR. KO: So complimentary.

18 BY MR. KNAPP:

19 Q. I would say the same about you,  
20 Professor Cutler.

21 A. But not about my knowledge of law,  
22 that I assure you.

23 BY MR. KNAPP:

24 Q. Okay. Well, let me just start with

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ACKNOWLEDGMENT OF DEPONENT

I, David Cutler, do

Hereby certify that I have read the foregoing  
pages, and that the same is a correct  
transcription of the answers given by me to the  
questions therein propounded, except for the  
corrections or changes in form or substance, if  
any, noted in the attached Errata Sheet.

David M. Cutler 5/21/19  
DAVID CUTLER, Ph.D. DATE

Subscribed and sworn

To before me this

21 day of May, 2019.

My commission expires: 10/29/21

[Signature]  
Notary Public

TONY PUNJABI  
Notary Public  
Commonwealth of Massachusetts  
Suffolk County  
My Commission Expires October 29, 2021

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1			- - - - -
			E R R A T A
2			- - - - -
3	PAGE	LINE	CHANGE
4	<u>25</u>	<u>5</u>	"Why is There No Cure For Health?"
5		REASON:	Title has question mark.
6	<u>47</u>	<u>20</u>	experiencing
7		REASON:	tense of word incorrect.
8	<u>147</u>	<u>15</u>	" <u>for</u> more"
9		REASON:	for misspelled as for
10	<u>152</u>	<u>4</u>	<u>effects</u>
11		REASON:	misspelled
12	<u>178</u>	<u>4</u>	marginal utility
13		REASON:	at left of marginal
14	<u>184</u>	<u>10</u>	insurer
15		REASON:	insurer mis-spelled
16	<u>189</u>	<u>3</u>	translate <u>an</u> input
17		REASON:	an is mis-spelled
18	<u>309</u>	<u>17</u>	advantages of that <u>method</u>
19		REASON:	I meant to say method
20	<u>313</u>	<u>1</u>	Professor Deaton <u>uses</u>
21		REASON:	I meant to say uses
22	<u>324</u>	<u>13</u>	the study of
23			not plural
24			



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1

- - - - -

## E R R A T A

2

- - - - -

3

PAGE LINE CHANGE

4

355 19using the NSDUH data

5

REASON:

misspelled

6

315 5-6the ~~ADA~~ Add Health survey

7

REASON:

fix survey name

8

9

REASON:

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11

REASON:

12

13

REASON:

14

15

REASON:

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REASON:

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REASON:

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DAVID CUTLER, Ph.D. DATE

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To before me this

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[Signature]

Notary Public

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Notary Public  
Commonwealth of Massachusetts  
Suffolk County  
My Commission Expires October 29, 2021

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1

## E R R A T A

2

3 PAGE LINE CHANGE

4 382 8 guidelines from medical5 REASON: preposition wrong6 382 23 excessive use by individuals7 REASON: missing preposition8 395 16 former was whether9 REASON: mistake in transcript10 395 18 per capita11 REASON: extra l in "capita"12 414 20 I wish I ~~had~~ that data13 REASON: missing that14 416 4 mortality rate difference15 REASON: mistake in transcript.16 426 5 small N's17 REASON: misunderstand of state language.18 456 20 suggests19 REASON: omitted s20 470 18 it would bias it21 REASON: clarify meaning22 477 17<sup>1</sup>22 Emile23 Fix name

24

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1			- - - - -
			E R R A T A
2			- - - - -
3	PAGE	LINE	CHANGE
4	<u>479</u>	<u>12</u>	<u>area I am expert in</u>
5		REASON:	<u>clarify meaning</u>
6	<u>495</u>	<u>8</u>	<u>one digit industries:</u>
7		REASON:	<u>clarify meaning</u>
8	<u>512</u>	<u>22</u>	<u>Professor <u>Aut</u>or</u>
9		REASON:	<u>spelling</u>
10	<u>531</u>	<u>23</u>	<del>not</del> <u>so far off</u>
11		REASON:	<u>clarify meaning</u>
12	<u>560</u>	<u>10</u>	<u>the <u>number</u> of pain</u>
13		REASON:	<u>misrecording</u>
14	<u>560</u>	<u>16</u>	<u>individuals <u>are</u> <u>diagnosed</u> with</u>
15		REASON:	<u>make meaning clear.</u>
16			
17		REASON:	
18			
19		REASON:	
20			
21		REASON:	
22			
23			
24			